

## § 306.5

or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).

[58 FR 41373, Aug. 3, 1993]

### DUTIES OF REFINERS, IMPORTERS AND PRODUCERS

## § 306.5 Automotive fuel rating.

If you are a refiner, importer, or producer, you must determine the automotive fuel rating of all automotive fuel before you transfer it. You can do that yourself or through a testing lab.

(a) To determine the automotive fuel rating of gasoline, add the research octane number and the motor octane number and divide by two, as explained by the American Society for Testing and Materials ("ASTM") in ASTM D4814-92c, entitled "Standard Specifications for Automotive Spark-Ignition Engine Fuel." To determine the research octane number, use ASTM standard test method D2699-92, and to determine the motor octane number, use ASTM standard test method D2700-92.

(b) To determine automotive fuel ratings for alternative liquid automotive fuels other than biodiesel blends and biomass-based diesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage by volume of the principal component of the alternative liquid automotive fuel that you must disclose. In the case of biodiesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of biodiesel contained in the fuel, and in the case of biomass-based diesel blends, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage of biomass-based diesel contained in the fuel. You also must have a reasonable basis, consisting of competent and reliable

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evidence, for the minimum percentages by volume of other components that you choose to disclose.

[58 FR 41373, Aug. 3, 1993, as amended at 73 FR 40162, July 11, 2008]

## § 306.6 Certification.

In each transfer you make to anyone who is not a consumer, you must certify the automotive fuel rating of the automotive fuel consistent with your determination. You can do this in either of two ways:

(a) Include a delivery ticket or other paper with each transfer of automotive fuel. It may be an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket, or any other written proof of transfer. It must contain at least these four items:

- (1) Your name;
- (2) The name of the person to whom the automotive fuel is transferred;
- (3) The date of the transfer;
- (4) The automotive fuel rating. Octane rating numbers may be rounded off to a whole or half number equal to or less than the number determined by you.

(b) Give the person a letter or other written statement. This letter must include the date, your name, the other person's name, and the automotive fuel rating of any automotive fuel you will transfer to that person from the date of the letter onwards. Octane rating numbers may be rounded to a whole or half number equal to or less than the number determined by you. This letter of certification will be good until you transfer automotive fuel with a lower automotive fuel rating, except that a letter certifying the fuel rating of biomass-based diesel, biodiesel, biomass-based diesel blend, and/or biodiesel blend will be good only until you transfer those fuels with a different automotive fuel rating, whether the rating is higher or lower. When this happens, you must certify the automotive fuel rating of the new automotive fuel either with a delivery ticket or by sending a new letter of certification.

(c) When you transfer automotive fuel to a common carrier, you must certify the automotive fuel rating of the automotive fuel to the common

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carrier, either by letter or on the delivery ticket or other paper.

[58 FR 41373, Aug. 3, 1993, as amended at 59 FR 48798, Sept. 23, 1994; 73 FR 40163, July 11, 2008]

### § 306.7 Recordkeeping.

You must keep records of how you determined automotive fuel ratings for one year. They must be available for inspection by Federal Trade Commission and Environmental Protection Agency staff members, or by people authorized by FTC or EPA.

[58 FR 41374, Aug. 3, 1993]

#### DUTIES OF DISTRIBUTORS

### § 306.8 Certification.

If you are a distributor, you must certify the automotive fuel rating of the automotive fuel in each transfer you make to anyone who is not a consumer.

(a) In the case of gasoline, if you do not blend the gasoline with other gasoline, you must certify the gasoline's octane rating consistent with the octane rating certified to you. If you blend the gasoline with other gasoline, you must certify consistent with your determination of the average, weighted by volume, of the octane ratings certified to you for each gasoline in the blend, or consistent with the lowest octane rating certified to you for any gasoline in the blend. Whether you blend gasoline or not, you may choose to certify the octane rating of the gasoline consistent with your determination of the octane rating according to the method in § 306.5. In cases involving gasoline, the octane rating may be rounded to a whole or half number equal to or less than the number certified to you or determined by you.

(b) If you do not blend alternative liquid automotive fuels, you must certify consistent with the automotive fuel rating certified to you. If you blend alternative liquid automotive fuels, you must possess a reasonable basis, consisting of competent and reliable evidence, for the automotive fuel rating that you certify for the blend.

(c) You may certify either by using a delivery ticket with each transfer of automotive fuel, as outlined in

§ 306.6(a), or by using a letter of certification, as outlined in § 306.6(b).

(d) When you transfer automotive fuel to a common carrier, you must certify the automotive fuel rating of the automotive fuel to the common carrier, either by letter or on the delivery ticket or other paper. When you receive automotive fuel from a common carrier, you also must receive from the common carrier a certification of the automotive fuel rating of the automotive fuel, either by letter or on the delivery ticket or other paper.

[58 FR 41374, Aug. 3, 1993, as amended at 59 FR 48798, Sept. 23, 1994]

### § 306.9 Recordkeeping

You must keep for one year any delivery tickets or letters of certification on which you based your automotive fuel rating certifications. You must also keep for one year records of any automotive fuel rating determinations you made according to § 306.5. They must be available for inspection by Federal Trade Commission and Environmental Protection Agency staff members, or by persons authorized by FTC or EPA.

[58 FR 41374, Aug. 3, 1993]

#### DUTIES OF RETAILERS

### § 306.10 Automotive fuel rating posting.

(a) If you are a retailer, you must post the automotive fuel rating of all automotive fuel you sell to consumers. You must do this by putting at least one label on each face of each dispenser through which you sell automotive fuel. If you are selling two or more kinds of automotive fuel with different automotive fuel ratings from a single dispenser, you must put separate labels for each kind of automotive fuel on each face of the dispenser.

(b)(1) The label, or labels, must be placed conspicuously on the dispenser so as to be in full view of consumers and as near as reasonably practical to the price per unit of the automotive fuel.

(2) You may petition for an exemption from the placement requirements by writing the Secretary of the Federal Trade Commission, Washington, DC